

Larry – Speaking Notes Public Accounts Feb 4, 2016

“Out of intense complexities intense simplicities emerge.” Winston Churchill

Introduction

- Good morning.
- I am Larry Sears and I am representing the Created in 1998, the Alberta Grazing Leaseholders Association (AGLA) advocates for the rights of all grazing leaseholders in Alberta.
- As leaseholders and we collaborate with the province and other stakeholders on a variety of public policy issues including land use, property rights and surface rights.
- In fact our members are we are currently working with Environment Resource and Sustainable Development for an updated rental rate formula, assignment fees and provision for ongoing rangeland sustainability.

This collaboration reflects one of the reasons our provincial grazing lease system works in our province - shared responsibility for the stewardship of our grazing lands.

- There is a saying that many of you may have heard that goes like this “Much has been written but little is understood.”
- Perhaps there is no issue that saying applies to more than grazing leases.
- Today I want to share with you some background information on grazing leases and address several key myths involving compensation, transparency, and role of the leaseholder.
- And I hope that we all leave the room with a little more understanding about the issue.

What are grazing leases?

- The first grazing leases were instituted in 1881.
- Today there are roughly 5,700 grazing leases covering an estimated 5.2 million acres (2.1 million hectares).
- These Crown lands have a designated priority use for agriculture and most are best suited to cattle grazing.
- Grazing Leaseholders pay the GoA rent based on the usage of a particular parcel of land and what that land can reasonably accommodate.
- The average lease in Alberta is just over a section and supports approximately 50 cows.

Grazing lease holders are stewards of the land

- The lion's share of grazing leases in Alberta are native landscapes.
- These landscapes have survived many pressures including settlement, agricultural expansion, urban development and industry. A big reason for that survival is the stewardship of the leaseholder.
- Our grazing leases lands are managed to ensure the health of the entire grazing ecosystem. This includes soils, grazing animals, plants, minerals, nutrients and water.
- The government has laid out objectives along with performance measures in a Code of Practice for leaseholders and has adopted a range health assessment system to monitor the health of our range lands.
- Leaseholders also must consider wildlife and human activities on the landscape. And it is a responsibility of the leaseholder to make leasehold improvements to properly manage these lands.

Leasehold improvements are a necessity

- However proper stewardship has associated costs.
- Leaseholders must be diligent in monitoring livestock grazing to ensure vegetation is not adversely impacted.
- In addition, leaseholders must also fence the lease, develop water sources and provide the other livestock handling infrastructure.
- These infrastructure assets are often impacted by other oil and gas development requiring they be repaired, dismantled, or rebuilt.

Compensation is not revenue

- When oil and gas activity occurs on a grazing lease, the leaseholder can no longer utilize those lands for grazing. The leaseholder may also endure other impacts included increased traffic, damaged fences, need to identify alternate water sources, etc.
- Alberta's Surface Rights Act requires that compensation should be paid to leaseholders of both private and Crown lands for the loss of use, adverse effects, nuisance and other damages caused by the oil and gas activity on the grazing lands.
- This compensation is not 'rent'. Nor is it "revenue." Nor is it an "access payment".

- The intent of compensation is intended to make leaseholders “whole”, that is, to put the grazing leaseholder affected by energy operations in a financial position as close as possible to the position they were in prior to entry by the operator.”

Compensation is paid to those who are impacted

- The Surface Rights Act and numerous court rulings require compensation being paid to the parties directly affected—the ones who suffer the losses and impacts.
- The Alberta Surface Rights Act separates these impacts into four categories:
 1. Adverse Effects on the rest of the landowner’s lands.
 2. Nuisance
 3. Inconvenience
 4. Noise
- Some have suggested that this compensation should go to the province.
- It would be difficult for the Province to argue they are directly affected by noise, dust, gates left open, moving cattle, loss of use or nuisance, because the Province does not experience these impacts.
- It strikes us as unfair and illogical for the ALI to support taking the compensation from the people who suffer harm and redirecting that compensation to a party that does not.
- Possible examples:
 - A farmer who rents land from another farmer loses a portion of his crop due to a pipeline installation. Would the renter be expected to pass this compensation to the land owner?
 - A renter of two-bedroom apartment who can no longer use the second bedroom because the landlord has also rented it out. Should compensation go to the landlord?
 - Store owner in a mall who has business close due to a water pipe failure, Should compensation go to the mall owner?

The process is transparent

- Energy companies generally make offers to landowners or leaseholders based on the framework for compensation as set out in section 25 of Surface Rights Act.

- In addition, if the parties fail to reach an agreement the Surface Rights Board - a provincial, quasi-judicial tribunal holds a public hearing to determine the compensation payable under the Surface Rights Act to the surface occupant and owner.
- The Board publishes detailed written decisions. The evidence the Board receives is available to the public.
- The Board's decisions are reviewable by the Alberta Court of Queen's Bench which is also a public process.
- The process for determining compensation is completely transparent and follows a clear legal process.

Conclusion

- AGLA members are prepared to engage in a meaningful consultation to discuss the future state of grazing leases in the province – provided that economic, environment, stewardship objectives and geography are all considered.
- The AGLA remains committed to ensure an informed conversation about grazing leases occurs, and that is why we have, and will continue to participate in consultation with the government.
- In fact, our group has provided substantial input on updating the grazing lease rental framework, the assignment fee changes and the Range Stewardship Fund to ensure the province has revenue to meet its public policy goals.
- The AGLA will continue to ensure that the policy conversation regarding grazing leases reflects the complexity of the grazing lease instrument, and recognizes the benefit of grazing leaseholders to manage competing interests on the landbase.